

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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DWAYNE J. SCOTT and DERELL J. MEYNARD,  
*individually and on behalf of all others similarly  
situated*

Plaintiffs,

- against -

WHOLE FOODS MARKET GROUP, INC.,

Defendant.  
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**THIRD AND FINAL  
SHOW CAUSE ORDER**

CV 18-86 (SJF) (AKT)

**A. KATHLEEN TOMLINSON, Magistrate Judge:**

**To: Dwayne J. Scott  
13921 SW 22<sup>nd</sup> Pl.  
Davie, FL 33325**

This case was set down for a Show Cause Hearing on October 17, 2019 by Order of the Court dated September 18, 2019. DE 46. Plaintiff Dwayne J. Scott was directed to appear before the Court and show cause why the Moser Law Firm, P.C. should not be relieved as counsel of record for Plaintiff Scott in this action. Plaintiff Scott did not appear at the October 17, 2019 hearing. The Court then scheduled a second Show Cause Hearing on November 14, 2019 by Order of the Court dated October 17, 2019. DE 50. The Court cancelled that hearing based upon Judge Feuerstein's November 12, 2019 Order, which stayed discovery in this case pending Judge Feuerstein's determination of Defendant's motion for reconsideration. On February 5, 2020, Judge Feuerstein entered an Order granting Defendant's motion for reconsideration, DE 58, and posted an Electronic Order that same day lifting the stay of discovery and holding in abeyance the parties' briefing on a motion for judgment on the pleadings pending this Court's resolution of the Moser Law Firm's representation of Plaintiff Scott. Accordingly, it is hereby

**ORDERED**, that **DWAYNE J. SCOTT APPEAR IN PERSON BEFORE THIS COURT, THE HON. A. KATHLEEN TOMLINSON PRESIDING, AT THE ALFONSE D'AMATO FEDERAL COURTHOUSE, 100 FEDERAL PLAZA, CENTRAL ISLIP, NEW YORK, 11722, IN COURTROOM 910, ON MARCH 9, 2020 AT 11 A.M. AND SHOW CAUSE WHY THE MOSER LAW FIRM, P.C., SHOULD NOT BE RELIEVED AS COUNSEL OF RECORD FOR DWAYNE J. SCOTT IN THIS ACTION**; and it is further

**ORDERED**, that Attorney Moser shall appear in Courtroom 910 at the March 9, 2020 Show Cause Hearing; and it is further

**ORDERED**, that the Moser Law Firm, P.C., shall remain counsel of record for Dwayne J. Scott until the further Order of this Court; and it is further

**ORDERED**, that counsel for Defendant is permitted to attend the Show Cause Hearing by telephone; and it is further

**ORDERED**, that Attorney Moser shall serve Dwayne J. Scott with a copy of this Order **personally** no later than February 17, 2020 as well as by first-class mail and shall file proof of such service on ECF by February 19, 2020.

**PLAINTIFF DWAYNE J. SCOTT IS HEREBY ON NOTICE THAT ANY FAILURE TO APPEAR ON MARCH 9, 2020 AND/OR RESPOND TO THIS SHOW CAUSE ORDER WILL RESULT IN THIS COURT (1) RELIEVING THE MOSER LAW FIRM FROM ITS REPRESENTATION OF DWAYNE J. SCOTT AND (2) MAKING A RECOMMENDATION TO JUDGE FEUERSTEIN THAT PLAINTIFF DWAYNE J. SCOTT'S CLAIMS IN THIS ACTION BE DISMISSED FOR FAILURE TO**

**PROSECUTE AND FOR FAILURE TO COMPLY WITH THE ORDERS OF THIS  
COURT.**

**SO ORDERED:**

Dated: Central Islip, New York  
February 7, 2020

/s/ A. Kathleen Tomlinson  
A. KATHLEEN TOMLINSON  
United States Magistrate Judge